

NEBRASKA ADMINISTRATIVE CODE

Title 48 - Department of Banking and Finance

Chapter 8 - FEDERAL COVERED ADVISERS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to federal covered advisers is consistent with investor protection and is in the public interest.

001.03 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

002 NOTICE FILING. Every federal covered adviser doing business in Nebraska shall, pursuant to Section 8-1103(3) of the Act, file with the Investment Adviser Registration Depository ("IARD") a notice containing the following information:

002.01 A copy of Form ADV as filed with the Securities and Exchange Commission for registration as an investment adviser pursuant to Section 203 of the Investment Advisers Act of 1940;

002.02 Either a consent to service of process in Nebraska or a fully executed page 1 of Form ADV, containing an original manual signature, that consents to the appointment of the Director of the Department of Banking and Finance as the agent of the federal covered adviser for service of process in Nebraska.

002.03 A fee in the amount of two hundred dollars (\$200) to be paid through the IARD; and

002.04 Any other information the Director may require.

002.05 A notice filing of a federal covered adviser shall be deemed filed when the filing fee and the Form ADV are transmitted to and accepted by IARD on behalf of Nebraska.

003 RENEWAL.

003.01 Federal covered adviser notice filings automatically expire annually on December 31. Notice filings by federal covered advisers must be renewed on or prior to that date.

003.02 The notice filing may be renewed annually by filing the following information with the IARD:

003.02A A copy of all amendments to Form ADV, including amendments to all applicable schedules and exhibits, that have not previously been filed with the Director;

003.02B A fee in the amount of two hundred dollars (\$200) to be paid through the IARD.

003.02C A notice filing of a federal covered adviser shall be deemed filed when the filing fee and the Form ADV are filed with, and accepted by, IARD on behalf of the state.

004 WITHDRAWAL. If a federal covered adviser is no longer conducting business in the state, the federal covered adviser shall notify the Director, through the IARD, by filing Form ADV-W, Notice of Withdrawal from Registration as Investment Adviser, 17 C.F.R. § 279.2. A notice of withdrawal is effective when filed with, and accepted by, IARD.

005 CORRECTION OF DOCUMENTS.

005.01 If the information contained in any document filed pursuant to this Rule is or becomes inaccurate or incomplete in any material respect, the federal covered adviser shall file a correcting amendment.

005.02 Any amendment required by Section 005.01 above for a federal covered adviser shall be made on Form ADV in the manner prescribed by that form.

005.03 Any amendment to Form ADV shall be filed within the time period specified in the instructions to that form relating to filings made with the Securities and Exchange Commission.

006 SUPERVISION. A federal covered adviser is ultimately responsible for the acts of its investment adviser representatives and other associated persons and must maintain reasonable supervision and control over such persons at all times.

007 ASSIGNMENTS. For purposes of Section 8-1102(3)(b) of the Act, a transaction which does not result in a change of actual control or management of a federal covered adviser is not an assignment.

008 DISHONEST OR UNETHICAL BUSINESS PRACTICES. The conduct set forth in 48 NAC 12.005 shall constitute "an act, practice or course of business which operates, or would operate, as a fraud or deceit upon another person," for purposes of Section 8-1102(2)(b) of the Act and "dishonest or unethical business practices" for purposes of Section 8-1102(2)(d) of the Act by a federal covered adviser. The delineation of certain acts and practices is not intended to be all inclusive. Acts or practices not enumerated therein may also be deemed fraudulent and dishonest.

009 NOTICE FILING BY A SUCCESSOR TO FEDERAL COVERED ADVISER. In the event that a federal covered adviser succeeds to and continues the business of a federal covered adviser for which a notice filing has been made pursuant to Section 8-1103(b) of the Act or succeeds to and continues the business of a registered investment adviser, the notice filing or registration of the predecessor shall be deemed to remain effective as the notice filing of the successor if the successor, within thirty (30) days from such succession, files a copy of its Form ADV, and the predecessor files a copy of the Form ADV-W if and when filed with the Securities and Exchange Commission.